REMARKS

Claims 1-23 are pending in the application. Applicant thanks the Examiner for confirming that the following amendment strategy is in accordance with Rule 116.

Claims 1-4, 12-18 and 20 are cancelled herein. Claims 5, 9-11 and 19 have each been rewritten in independent form by including limitations of all base and intervening claims. Claims 21-23 are new. However, the new claims are dependent on claim 5 and recite the subject matter of original claims 9-11. Thus, no new issues have been claimed. Applicant therefore requests entry of the amended claims since the claims meet the requirements of reducing the number of claims under Rule 116 and if not allowable, should be entered for purposes of appeal.

Claims 5-10 stand rejected under 35 U.S.C. §103(a) for obviousness over *Dunstan* in view of *Erekson* (U.S. Patent No. 6,622,018). The Examiner cites to *Erekson* for its teachings related to wireless remote control.

According to MPEP §706.02(j), for a claim to be obvious, there must be: (a) a suggestion or motivation to combine reference teachings; (b) a reasonable expectation of success; and (c) the references must teach all of the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). In the present case, the obvious rejections are unsustainable because the combination of *Dunstan* and *Erekson* fails to teach all limitations of any rejected claim.

Claim 5 as amended recites a prioritizing element, wherein the newly specified apparatus is *the next closest in distance to the* remote control *device*. The Examiner cites to *Erekson* at 5:15-36 and 6:38-64 as evidence of this element. However, 5:15-36 merely describes Bluetooth technology generally, and 6:38-64 describes the operation of alpha-numeric input *device* 106. There is simply no teaching or suggestion in *Dunstan* or *Erekson*, or any combination of the two,

for enabling a user interface control to prioritize target apparatus based on distance between apparatus and remote control.

The remote control device of claim 5 can be further distinguished over *Dunstan* and *Erekson* as follows: With the remote control of claim 5 in a condition where the physical distance between the remote control device and each of the apparatuses is in a certain range, an apparatus sought to be controlled by the remote control as the target apparatus is selected, one after another, in an order determined according to the distance between the apparatus and the remote control every time the user performs a predetermined operation for changing the control target apparatus. Accordingly, among the plurality of apparatuses, the apparatus closest to the remote control is initially selected as the target apparatus. However, the user can select the second closest apparatus as the target apparatus on his own will, by operating the remote control. This means that in the condition where a plurality of apparatuses are within a control range of the remote control, every time the user performs the predetermined operation, the target apparatus is not limited to one apparatus, but it is switched from one to another based on the distance between the apparatus and the remote control.

No combination of *Dunstan* and *Erekson* would achieve the foregoing feature of the remote control of claim 5. *Dunstan* discloses a technique for a remote control device to control an apparatus within a control range of the remote control. However, *Dunstan* fails to teach or disclose a technique to order a plurality of apparatuses and narrow the control target down to one apparatus. In other words, *Dunstan* simply specifies one group of apparatuses located in a particular room area as potential targets for a remote control, and fails to assume a selection sequence to prioritize among them based on their order of distance from the remote control.

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Next, *Erekson* discloses a technique to select each of a plurality of remote apparatuses as a control target. However, *Erekson* fails to disclose or teach a technique to select a control target based on the difference of the physical distance between each apparatus and the remote control. *Erekson* discloses a technique for communicating with each apparatus using Bluetooth. However, there is no teaching or suggestion anywhere within *Erekson* for effecting a <u>distance measurement</u> using Bluetooth technology.

In sum, the remote control device according to Claim 5, as amended, is not obvious in view of any combination of *Dunstan* and *Erekson.* For these reasons, Claim 5 should be allowed, and Claims 6-8 are allowable through dependence on Claim 5.

Specifically regarding Claim 8, the Examiner cites to *Erekson* at 6:5-20 for evidence that Erekson teaches *switching the target apparatus by sensing a vibration.* However, all that the cited passage teaches is that a user of a remote control can select a command by "touching the stylus to the display device." *Erekson,* 6:7,13. "The position where the stylus <u>contacts</u> display device 105 is registered and fed to processor 101." *Erekson,* 6:14-15. Thus, *Erekson's* display is sensitive to contact. The Examiner cannot seriously argue that touching a stylus to a display device is equivalent to the remote control sensing a vibration. In the present application, a user inputs a command to change the target apparatus by shaking the remote control at a vibration stronger than a predetermined intensity to activate an acceleration sensor. Application, p.26, ln.24 to p.27, ln.1; p.28, ln.9-15. The vibration element is clearly absent from the teachings of *Dunstan* and *Erekson*; therefore Claim 8 is allowable on this basis alone.

Regarding the rejection of Claim 9, the Examiner cites to *Erekson* at 4:54-62 for evidence that *Erekson* teaches selecting an apparatus that is closest to the remote control from among all apparatuses *within a predetermined angle in the facing direction of the remote control device,* as

claimed. However, the cited passage merely discloses the 10m to 100m transmission range of Bluetooth short-range radio. *Erekson*, 4:54-62. Thus, *Erekson's* remote control transmits a spherical signal having a radius anywhere from 10 to 100 meters. There is no teaching or suggestion in *Erekson* to confine its transmission path to a predetermined angle as a means of prioritizing apparatuses. This feature allows a user holding a remote control according to the present invention to quickly select a target apparatus from among a room full of apparatuses by pointing the remote control toward the desired target. *See* Application, p.29, ln.18-23 and FIG. 10. No combination of *Dunstan* and *Erekson* suggests this feature; therefore Claim 9 is not obvious and should be allowed.

Regarding the rejection of claim 10, the Examiner cites to *Erekson* at 5:38-53 as evidence that *Erekson* teaches storing an *operation history* in a remote control and based on the history, *specifying as the target apparatus, one of the apparatuses whose distance to the remote control is closer than a predetermined distance*. The cited passage generally teaches the concept of storing information and instructions on a hand-held computer. There is no teaching or suggestion directed to specifying a target apparatus based on a combination of (i) operation history stored in remote control memory and (ii) a distance between a target apparatus and the remote control, as claimed. In other words, claim 10 recites a remote control that can prioritize among potential target apparatuses based on usage history and a relative location. With this structure, the remote control can preferentially select an apparatus that has been used by the user before, if such an apparatus exists at a position not far from the remote control. Since this is not taught or suggested by *Erekson* alone or in combination with *Dunstan*, the rejection of Claim 10 should be withdrawn.

Claim 11 stands rejected under 35 USC §103(a) for obviousness over *Dunstan* in view of *Erekson* and in further view of *Tillgren* (U.S. Patent No. 6,622,018). The Examiner cites to *Tillgren* for teachings related to synchronizing Bluetooth-compatible devices.

The Examiner cites to *Tillgren* at 4:48-65, which is a paragraph describing the Bluetooth method for synchronizing slave devices to a master device using the system clock of the master device. This has no relation to the time unit recited in claim 11, which is used to determine time of day *(e.g.* morning, afternoon, evening, night), as opposed to an *oscillating clock signal used to* synchronize digital Bluetooth devices. *See* Application, p.35, ln.15-24.

Importantly, claim 11 contains a limitation whereby, according to time indicated by a time unit, the remote control *specifies as the target apparatus, one of the apparatuses whose distance to the remote control is closer than a predetermined distance.* Thus, Claim 11 a remote control that prioritizes among potential target apparatuses based on <u>time of day and a relative location</u>. This feature is not taught in any of the cited references, either alone or in any combination. Therefore Claim 11 is allowable on this basis alone.

Claims 19 stands rejected under 35 USC §102(e) as allegedly anticipated by *Dunstan.* The Examiner cited to *Dunstan* for its teachings related to locating consumer electronic (CE) devices within an enclosed space using remote control.

It is well settled in the law that in order for a prior art reference to anticipate in terms of 35 USC §102, every element of the claimed invention must be identically shown in a single reference. *Diversitech Corp. v. Century Steps, Inc.,* 850 F.2d 675, 677, 7 U.S.P.Q.2d 1315, 1317 (Fed. Cir. 1988). For a proper rejection of a claim under 35 U.S.C. §102(b), the cited reference must disclose all elements/features/steps of the claim. See, *e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.,* 849 F.29 1430, 7 USPQ2d 1129 (Fed. Cir. 1988). Therefore, for each

claim in the present invention, every element of that claim must be taught by *Dunstan* in order for *Dunstan* to form the basis for a proper rejection under 35 USC §102.

In the present case, *Dunstan* is insufficient as a §102 reference against Claim 19 because it fails to teach at least one element of Claim 19. Applicant notes that Claim 19, as amended, contains the limitations of canceled Claims 16-18, which include many of the same elements as claim 5. Claim 19 is therefore patentable over *Dunstan* in the same manner as Claim 5.

Furthermore, Claim 19 is patentable based on the following claim limitation: interface controls *automatically customized to the control characteristics of the first in order of prioritized apparatus ....*" In other words, Claim 19 recites a remote control device having user interface controls (e.g. a touch-screen display) that automatically reconstruct the appearance of the operating screen to correspond to the controls of the highest priority apparatus. *See* Application, p.22, ln. 14-20; FIG. 5 steps S15 and S16. Nothing like this is taught in any of the passages cited by the Examiner in the rejection of claim 16. *Dunstan* 3:40-51 discloses CE devices transmitting room location information. *Dunstan* 4:37-67 discloses a GPS device in the remote control that allows processor 420 to determine room location. *Dunstan* 5:4-56 discloses storing a sequence of commands on processor 420, and enabling certain parental controls. Thus, *Dunstan* fails to teach automatic customization of remote control characteristics according to the highest priority apparatus, and therefore fails to anticipate claim 19, as amended. Applicant respectfully requests that Claim 19 be allowed on this basis alone.

In view of all of the above, Applicant submits that the present invention is more than adequately distinguished over any combination of the references of record by the presently pending claims, and is worthy of patent protection. Accordingly, Applicant respectfully urges issuance of all pending claims.

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     If the Examiner believes a telephone interview will assist in the prosecution of this

application, the undersigned attorney can be contacted at the listed phone number.

I hereby certify that this correspondence is being transmitted via facsimile to the USPTO at **571-273-8300** on April 24, 2006.	Very truly yours, **SNELL & WILMER L.L.P.**

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